

The principle of solidarity and its impact on the Czech social security system

Abstract

This thesis studies and describes the application of the social solidarity principle in the social security law, which is an elementary principle in this field. It is a widely discussed topic, as the extent of its application directly impacts the standard of living for most people. It is the care for the needy that determines the cultural character of given society.

The thesis consists of the general part and the special part.

In the general part, the social solidarity principle is defined, as well as other principles: the contradictory principle of equivalence, the justice principle and the subsidiarity principle. The general part also deals with the philosophical and historical context of solidarity that stems from the Jewish-Christian roots of the European culture. In the modern era, it focuses on the evolution of the conception of solidarity and solidarity principle in the area of the Bohemia, Moravia and Silesia.

It shows that the current state of the social security system builds on the rich intellectual past of Czech economists and lawyers. Moreover, there are inspiring people and ideas in this area nowadays. It is a never-ending task to keep looking for the best among them.

The special part analyses the decisions of the Constitutional Court of the Czech Republic that analysed the principle of solidarity and also touched on these related principles: the judicial self-restraint principle in political questions, prohibition of arbitrariness of the legislator and the principle of legitimate expectation. It describes the difference between the proportionality test and the rationality test. The latter was designed by the Constitutional Court for comparing rights colliding with constitutionally guaranteed social rights. From this viewpoint, the decisions describe the most important social systems such as the pension insurance, the sickness insurance and the healthcare insurance. The thesis is based on related professional literature. The thesis investigates the connections among these decisions and thus finds out to what extent the decisions of the Constitutional

Court are predictable. In line with the given topic, the thesis deals in its special part primarily with the decisions of Czech courts, while the passages comparing the Czech approach to the foreign approach only play a complementary role.

It can be said that the case law of the Constitutional Court of the Czech Republic has made great progress, which is manifested for example in introducing the rationality test or through consistent and mutually connected decision making in some matters. It can be assumed that in the future more legal questions will be clarified, the decisions will be even more predictable and the legal certainty will increase in the field of social security law.

Although the application of the solidarity principle in the social security system is inevitable in our cultural environment, the question is to what extent it should be considered and how the specific systems should be set so that they would impact all participants correctly.

Key words:

Solidarity, equivalence, legal principle, social security